

REMARKS

Applicant respectfully requests reconsideration of this application. Claims 10 and 20 have been canceled. Claims 1, 8, 11-14 and 19 have been amended to more properly define preexisting claim limitations and are supported by the specification.

Claim numbering

The Examiner has objected to the numbering of the originally presented claims 20-21 and has renumbered the originally presented claims 20 and 21 to be claims numbered 19 and 20, respectively. Applicant thanks the Examiner for his attention and review of the application.

Specification objections

The specification at page 16, line 16 has been objected to in the Office Action. Applicants respectfully submit that the above typographically error has been corrected. Accordingly, Applicants respectfully request the objection to the specification be withdrawn.

Claim objections

Applicants respectfully submit that claims 1 and 8, as amended, overcome the objections to claims 4 and 11. Accordingly, Applicants respectfully request the objections to claims 4 and 11 be withdrawn.

Rejections Under 35 U.S.C. § 101

Claims 18-20 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory matter. The Office Action states since “a computer readable-medium encoded with the program code has not been claimed, the computer code as claimed is computer listing per se (MPEP 2106).”

MPEP §2106(IV)(B)(1)(a) states “Computer programs are often recited as part of a claim. Office personnel should determine whether the computer program is being claimed as part of an otherwise statutory manufacture or machine. In such a case, the claim remains statutory irrespective of the fact that a computer program is included in the claim. The same result occurs when a computer program is used in a computerized process where the computer executes the instructions set forth in the computer program. Only when the claimed invention taken as a whole is directed to a mere program listing, i.e., to only its description or expression, is it descriptive material per se and hence nonstatutory.”

Applicants respectfully submit that claim 18 claims “an article of manufacture” (e.g., a machine-readable media, computer-readable media, a floppy disk, optical disks, etc) that includes program code which, when executed by a machine (e.g., a computer), causes said machine to perform the operation as claimed. Therefore, Applicants respectfully submit that claim 18 is statutory irrespective of the fact that program code is included in the claim.

Accordingly, Applicants respectfully submit that claims 18-20 recite statutory subject matter under 35 USC §101. Therefore, Applicants respectfully request the rejection to claims 18-20 be withdrawn.

Claim 20 stands rejected under 35 U.S.C. 112, first paragraph, for failing to comply with the enablement requirement.

Applicant does not concede that claim 20 was not enabled and reserves the right to file a continuation application containing such claims should Applicant so desire. Nevertheless, Applicants respectfully request claim 20 be cancelled without prejudice, in order to obtain allowance of the remaining pending claims.

Claims 1-4, 6, 8-11, 13, 15, 16, 18 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Gladstein, et al., U.S. Patent No. 5,349,668 (hereinafter “Gladstein”), in view of Teitelbaum, et al., US Patent No. 5,848,231, (hereinafter “Teitelbaum”).

Gladstein discloses a digitizer tablet computer which uses a rechargeable battery as the primary power source allowing a user to carry the computer about from place to place and conduct different transactions. (See Gladstein, column 1, lines 35-39). A battery monitor is connected across each bank and monitors the voltage across each bank. When the battery monitor detects that the voltage across any one of the banks is at a predetermined level, the computer automatically saves the data and shuts down under program control.

Teitelbaum discloses when using a network, a file server is often provided with power protection means and uninterrupted power supplies. Uninterrupted power supplies provide battery power during power failures. Saving system data to a file server, allows for minimal data loss in the event that failure of a workstation occurs. (See Teitelbaum, column 15, lines 25-30).

Applicants respectfully submit that there is no motivation or suggestion to combine Gladstein and Teitelbaum. Gladstein discloses saving data stored in volatile memory but does not disclose or suggest saving data stored in volatile memory to a remote server. Teitelbaum discloses saving system data to a file server but does not disclose or suggest saving data stored in volatile memory to a remote server. Therefore, Applicants respectfully submit combining these references does not disclose or suggest saving data stored in volatile memory on a portable apparatus to a remote server responsive to said first threshold value being reached, as claimed (directly or indirectly) in claims 1-4, 6, 8-11, 13, 15, 16, 18 and 19. Even if the combination suggested the claimed elements, the mere fact that the references could be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination (see MPEP §2143.01). In this case, Applicants respectfully submit the combination does not suggest the desirability to combine the references because Gladstein does not disclose or suggest storing data in a volatile memory to a remote server and Teitelbaum does not disclose or suggest storing data in a volatile memory to a remote server. Therefore, the

combination cannot disclose or suggest storing data in volatile memory to a remote server, as recited in claims 1-4, 6, 8-11, 13, 15, 16, 18 and 19.

Claims 5, 12 and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Gladstein, et al., U.S. Patent No. 5,349,668 (hereinafter "Gladstein"), in view of Teitelbaum, et al., US Patent No. 5,848,231, (hereinafter "Teitelbaum") as applied to claims 1 and 15 above, and further in view of Harwell, U.s. Patent No. 6,396,637 (hereinafter, "Harwell").

Applicants respectfully submit that there is no motivation or suggestion to combine Gladstein, Teitelbaum, and Harwell. Gladstein discloses saving data stored in volatile memory but does not disclose or suggest saving data stored in volatile memory to a remote server. Teitelbaum discloses saving system data to a file server but does not disclose or suggest saving data stored in volatile memory to a remote server. Harwell discloses power fail logic module 50 responds by causing batteries 38 and 40 to switch into their respective circuits and signals RAMs 26 and 28 to dump their data onto their respectively connected backup disk drives 34 and 36. Furthermore, Harwell discloses upon a subsequent power up, CPU 24 causes each of the backup disk drives 34 and 36 to read their stored data back into their respectively connected RAM modules 26 and 28. Thus, system state is reestablished identically to what was in existence at the time of the shut down. (See Harwell, column 3, lines 20-42). However, Harwell does not disclose or suggest saving data stored in volatile memory to a remote server, as recited in claims 5, 12, and 17. Therefore, Applicants

respectfully submit combining these references does not disclose or suggest saving data stored in volatile memory on a portable apparatus to a remote server responsive to said first threshold value being reached, as claimed. Even if the combination suggested the claimed elements, the mere fact that the references could be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination (see MPEP §2143.01). In this case, Applicant respectfully submit the combination does not suggest the desireability to combine the references because the combination does not disclose or suggest storing data in a volatile memory to a remote server. Therefore, the combination does not disclose or suggest storing data in volatile memory to a remote server, as recited in claims 5, 12, 17.

Claims 7 and 14 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Gladstein, et al., U.S. Patent No. 5,349,668 (hereinafter “Gladstein”), in view of Teitelbaum, et al., US Patent No. 5,848,231, (hereinafter “Teitelbaum”) as applied to claim 1 above, and further in view of Inomata, et al., U.S. Patent No. 6,548, 679 (hereinafter, “Inomata”).

Applicants respectfully submit that there is no motivation or suggestion to combine Gladstein, Teitelbaum, and Inomata. Gladstein discloses saving data stored in volatile memory but does not disclose or suggest saving data stored in volatile memory to a remote server. Teitelbaum discloses saving system data to a file server but does not disclose or suggest saving data stored in volatile memory to a remote

server. Inomata discloses a data storage apparatus which can preserve only necessary data by using an EEPROM even if the power supply voltage is lowered or cut off, and is designed so as not to exceed the data write count limit or shorten the service life of a battery (See Inomata, column 1, lines 38-47). Inomata does not disclose or suggest saving data stored in volatile memory to a remote server. Therefore, Applicants respectfully submit combining these references will not disclose or suggest saving data stored in volatile memory on a portable apparatus to a remote server responsive to said first threshold value being reached, as recited in claims 7 and 14. Even if the combination suggested the claimed elements, the mere fact that the references could be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination (see MPEP §2143.01). In this case, Applicants respectfully submit the combination of Gladstein, Teitelbaum, and Inomata do not suggest the desireability to combine the references because the combination does not disclose or suggest storing data in volatile memory to a remote server. Therefore, the combination cannot disclose or suggest storing data in volatile memory to a remote server, as recited in claims 7 and 14.

CONCLUSION

Applicants respectfully submit that the rejections have been overcome by the amendments and remarks, and that the pending claims are in condition for allowance. Accordingly, Applicants respectfully request the rejections be withdrawn and the pending claims be allowed.

If there are any additional charges, please charge Deposit Account No. 02-2666 for any fee deficiency that may be due.

Respectfully submitted,

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